

EXHIBIT 9



CIRCUIT MEDIATION OFFICE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT
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March 8, 2007

Dear Counsel:

Attached for your review is a courtesy copy of the recently filed order denying the Petition for Rehearing and Petition for Rehearing *en banc* in Bonneville Power Administration v. FERC.

Very truly yours,

A handwritten signature in cursive script, reading "Lisa J. Evans", is positioned above the typed name.

Lisa J. Evans
Circuit Mediator

Attachment

cc: The Honorable Edward Leavy
Lee Ann Watson, Esq.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAR 07 2007

CATHY A. GATTERSON, CLERK
U.S. COURT OF APPEALS

BONNEVILLE POWER
ADMINISTRATION,

Petitioner,

CITY OF TACOMA; PORT OF
SEATTLE; CORAL POWER, L.L.C.;
CONSTELLATION ENERGY
COMMODITIES GROUP, INC.,

Intervenors,

v.

FEDERAL ENERGY REGULATORY
COMMISSION,

Respondent,

PACIFICORP,

Respondent-Intervenor.

No. 02-70262

FERC No. EL00-95-001
District of Oregon,
Portland

ORDER

Before: THOMAS, McKEOWN, and CLIFTON, Circuit Judges.

Having considered the California parties' arguments, the panel votes to deny the Petition for Rehearing and Petition for Rehearing en banc. The panel opinion does not conflict with the D.C. Circuit's decision in Pacific Gas & Electric Company v. FERC, 306 F.3d 1112 (D.C. Cir. 2002). In that case, which arose in a

different context under § 205 of the Federal Power Act (“FPA”), 16 U.S.C. § 824d, and did not rest on a jurisdictional analysis under FPA § 201(f), the D.C. Circuit stated that “[a]s a general matter, publicly-owned utilities are not subject to FERC’s §§ 205 and 206 jurisdiction, see FPA § 201(f), 16 U.S.C. § 824(f), although FERC may analyze and consider the rates of non-jurisdictional utilities to the extent that those rates affect jurisdictional transactions.” Pacific Gas, 306 F.3d at 1114. The court did not say, or even imply, that FERC may assert jurisdiction over a non-jurisdictional entity for purposes of ordering a refund. The parties’ other claim of a circuit conflict with United Distribution Companies v. FERC, 88 F.3d 1105 (D.C. Cir. 1996), is no more persuasive, as we explained earlier in the panel opinion.

The full court has been advised of the petition for rehearing and rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. Fed. R. App. P. 35.

The petition for panel rehearing and the petition for rehearing en banc are denied.